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(2) THE MADRAS GENERAL SALES TAX (AMENDMENT) BILL, 1955
(L.A. BILL NO. 4 OF 1955).

* THE HON. SRI M. A. MANICKAVELU :—“ Sir, I move— 4-40
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‘ That the Madras General Sales Tax (Amendment) Bill a,
1955 (L.A. Bill No. 4 of 1955), as passed by the
Assembly, be taken into consideration.’

Sir, I may point out that sub-section (1) of section 3 of the Madras General Sales Act, 1939, provides for the levy of sales tax in respect of the total turnover of a dealer for each year. The Madras General Sales Tax (Turnover and Assessment) Rules framed under the Act provides for the collection of the tax in advance even before the end of the financial year. The High Court of Madras recently held that the levy and collection of tax in advance had not been specifically provided for in the Act and that the rules were therefore invalid. It is now proposed to amend the Act so as to specifically authorise the Government to provide for the levy of sales tax in advance. It is also proposed to give retrospective effect to the proposal from the date of commencement of the main Act. This practice of levying and collecting the tax in advance has been in force for a number of years, i.e., ever since the commencement of the Act, and this was not felt as infringing the provisions of the Act. But in the case that went up to the High Court, the High Court decided that the levy and collection of the tax in advance could not be provided for in the rules. That is why, Sir, we are amending the Act.”

MR. CHAIRMAN :—“ Motion moved :—

‘ That the Madras General Sales Tax (Amendment) Bill, 1955 (L.A. Bill No. 4 of 1955), as passed by the Assembly, be taken into consideration.’ ”

* DR. V. K. JOHN :—“ When were the rules providing for the collection of tax in advance framed, Sir? ”

* THE HON. SRI M. A. MANICKAVELU :—“ I think, Sir, the rules were framed soon after the Act came into force. To answer this question correctly, I require notice. I require time to verify the date so that I may give correct information to the hon. the Deputy Leader of the Opposition.”

* DR. V. K. JOHN :—“ Sir, I have always been against the imposition of sales tax as a taxation measure. I consider that it is a regressive form of taxation. If a man should invest his money on a business and should lose in the business, the Government do not take a share in his loss. The businessman has to pay income-tax only on the profit that he makes, but in the case of the sales tax, whether he makes a profit or not, the Government will recover from him the sales tax. Calculations have been made

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showing that this sales tax forms about 25 per cent of the value of the article. I oppose sales tax as a taxation measure because it is regressive in its incidence, and it adds to the cost of living. It is a great burden on the poor man. Even the beggars' homes are taxed. Therefore, this tax should not have been introduced in our State. In other countries there is the purchase tax on luxuries and no sales tax. We must now as far as possible try to see that the provisions of this measure are not enforced regressively and harshly against the assesseees. I know from my professional experience that a very large number of people have been ruined by this sales tax. They are unable to find the money to pay this tax. Very often they incur losses, especially the smaller dealers. Even when they incur a huge loss they have to pay the sales tax. Again what is the rate of the tax? The rate is very high. The Taxation Enquiry Commission provide that the rate should not be more than half a per cent, that is, one pie in the rupee. Now we are charging many times more. It is not at all one pie in the rupee. When there is the multi-point sales tax, they say that the rate should not be more than one pie in the rupee. In fact it should be even less than one pie. I tell this Government that they should, before introducing any measure connected with the levy of this sales tax, should study the recommendations of the Taxation Enquiry Commission and reduce the rate of this sales tax. Otherwise the Government will be confronted with diminishing returns. The Government some years before were having huge receipts from sales tax. But now the receipts have gone down. Why? The reason is that the purchasing power of the people has been brought down. There are no sales in the shops and consequently sales tax receipts also are low. Now we say that levy of the sales tax shall be made in advance. Though the rules said that levy and collection of sales tax could be made in advance, still as such a provision was not found in the Act, the rules were held to be invalid. To set right the position, the Government have brought forward this Bill. Sir, I think it will be a very harsh thing to ask for payment in advance, if collection of the tax is not made by the businessman. Very often the collection of the tax is made by the dealer. I agree with the Government that the businessman collects sales tax from the customers. The Government can recover that amount from him. But there are cases in which the tax is not collected by the businessman at all, but he ultimately pays the tax to the Government. When he pays it out of his own pocket, it will be a very difficult thing for him to pay the tax in advance. The Government do not provide for any interest on the tax collected in advance. Section 18-A of the Indian Income-tax Act provides for two per cent interest to be paid by the Government to the assessee. I think this was introduced in the year 1946 for the purpose of withdrawing the excess money in circulation then. On account of the war, many people had too much of inflated money with them, and the Government of India thought that that money should be withdrawn. But to-day the position is

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different. We are trying now to collect the tax in advance. I am quite sure that in many cases this measure will be found to be very oppressive and people will be ruined.

"Sir, I do not see why this Bill should be given retrospective effect. The Government are providing for collection of tax in advance during this year. How can they say that they are giving retrospective effect from the year 1939? How is it possible to have advance collection of taxes due for the years 1939 and 1940?"

THE HON. SRI M. A. MANICKAVELU :—"The retrospective effect will apply to levy and collection of tax only for the last one or two years. In the case of the earlier years, it is all over."

* DR. V. K. JOHN :—"I am glad, Sir, that the Hon. the Mover of the Bill realises the difficulty in providing for payment retrospectively from 1939. He says that it is only for one or two years. It cannot be for one or two years either. It can be only for the current year. There is no question of collecting in advance the tax due for last year. In spite of the explanation now given by the Hon. Minister that it will apply only to the last one or two years, Clause 3 of the Bill says—

'The principal Act shall be read and constructed as if the amendments made by section 2 had formed part of the principal Act from its commencement'

We are trying to get rid of the English language, but so long as we are using that language, I think we must understand it correctly. The clause says ' . . . from its commencement '. Does this mean the last one or two years? It means from 1939. The Government are providing for the collection in advance of the tax not for the current year but for the years earlier than that, i.e., from 1939. How is it possible to do this? The Hon. Minister's explanation and the clause are mutually contradictory. I do not want to say anything about bad drafting, because they immediately become very sensitive. But as a lawyer, I am unable to understand what is meant by saying 'advance collection of tax' for the year that is passed."

SRI M. P. GOVINDA MENON :—"What about the collection made when it was not authorised?"

* DR. V. K. JOHN :—"Well, that would be an excellent reason for providing for validation of taxes collected in advance in previous years. The High Court never says that the Government must give back this tax. The High Court has only said that the Government cannot collect the tax according to the previous Act even though the Government had provided for the same in the rules. As the Act itself did not contain a provision enabling the Government to do this, the High Court said that the Government cannot do it. Now, the Government have brought forward an

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amendment providing for this in the Act itself. I can understand if the Government collect this advance tax from this year onwards. They should not give retrospective effect to this amended provision. Retrospective application in respect of any legislation is certainly bad. I hope the Hon. Minister will reconsider the matter and bring forward an amendment if necessary. I must say with all sincerity that the Hon. the Minister for Revenue, the Mover of this Bill, is sincere about anything that he does or says. If he says that he will look into a particular matter, I am sure he will look into the matter and see that hardships are removed wherever they are found. Suppose a person has to pay this advance tax from out of his pocket and he also pays it. Supposing he was not able to collect this tax or portion of it from other persons, he will be in difficulty. When the Government collect the money in advance and do not pay any interest, the persons concerned will be put to great hardships. People in the commercial line cannot get money easily for carrying on their business. They have to pay 7 per cent or 9 per cent even to the Bankers and in most cases they have to borrow money at usurious rates of interest. Now, when the Government take away the money from these poor people, they are prevented from putting their own money into business and go in for loans which are also not easily available. After all, it is a question of diminishing return. Why should the Government take away the money from these businessmen? I cannot simply understand that. Suppose the Government take away a sum of Rs. 1 lakh from an assessee by way of advance payment of tax. By this the Government are only preventing the person concerned from putting this money into his business. If only this amount was available with him, he would have had a roaring business and the Government also would have got more revenue as a result of the expanded business of this person. I request the Government to kindly consider whether this advance collection is to their own interest. I as a person knowing something about the commercial branches of law and as one who has been arguing such cases in the High Court—think that it will be very oppressive to a businessman when the Government take away the money in advance. From the businessman's point of view, I should express my view against the Government's making this advance collection. I personally welcome it. If I am asked to pay the tax in advance, I will gladly do it. Because I am not doing any business. I am only a professional man. When I am asked to pay the tax in advance and when I pay it, I will at least get 2 per cent interest. I will be glad to pay this tax in advance for another reason, viz., at the end of the year, there will be nothing for me to pay. But, in the case of a businessman, the position is absolutely different. Because, he depends on this money for his business. It is his capital, so to say. When this money which he will use as his capital for his business is taken away by the Government, surely it will create all sorts of difficulties for him. In the ordinary course, he would have invested this money on his business, which would have given him

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more income and naturally the Government also would have got more tax. Therefore, I would request the Hon. the Minister for Revenue to find out what will be the effect of this measure on the Government's revenue itself and on business in general. When business contracts, naturally unemployment will increase. Sir, we must not do anything which would create more unemployment. We must do everything possible to solve the problem of unemployment. For this purpose, we must increase the purchasing power of the people. How will this be possible when we make the business contract? Unless, more and more money was allowed to flow into the business sector we cannot solve the unemployment problem. The Government must realise this. There is no use of their saying, 'Look here. You pay whatever you have got as advance tax to us. If you want money for expanding or even for running your business, you better borrow money from other sources at 12 per cent interest or even at a higher rate of interest. If you are not able to borrow money and if you are not able to run your business profitably and if you get into a loss, we are not responsible.' I must say that this attitude of the Government will certainly jeopardise the interests of many businessmen in this State. I would request the Hon. Minister to depend upon the economic strength of the people. We must raise the purchasing power of the people. We must help the businessmen to enlarge their business and to increase production. If this is done, I am sure the Government also will get more income. But, as it is, the provision for advance collection will only contract business and will give the Government only diminishing returns. In actual practice, the Government will see that they stand to lose because of this measure. This is what I wish to point out to the Government, Sir."

SRI M. ETHIRAJULU :—"கனம் சேர்மன் அவர்களே, இந்த விற்பனை வரி மசோதாவை ஆதரித்து சில வார்த்தைகள் பேச விரும்புகிறேன். சென்ற வருஷ வரவு செலவுத் திட்டத்திலே சிறு வியாபாரிகளுக்கு நாம் விதிவிலக்கு அளித்தோம். அதாவது மச்சம், மாமிசம் போன்றவைகளை வியாபாரம் செய்கிறவர்களுக்கு விதிவிலக்கு அளித்தோம்."

MR. CHAIRMAN :—"ஒன்றும் புரியவில்லை; இருந்தாலும் பேசுங்கள்"

SRI M. ETHIRAJULU :—"இந்த வருஷ பட்ஜெட்டிலே உருளைக் கிழங்கு, வெற்றிலை, காய்கறிகள் போன்ற சாமான்களுக்கு விதிவிலக்கு அளித்திருக்கிறோம். ஆனால் ஒரு சர்க்காரை நல்ல முறையில் நடத்த வேண்டுமானால் வரி மிகவும் முக்கியமானது. வரி விதித்து அதன் மூலம் வரும் வருவாயைக் கொண்டுதான், மக்கள் கேட்கும் குறைகளை நிவர்த்தி செய்யமுடியும் என்பது எல்லோருக்கும் தெரிந்த விஷயம். இருந்தாலும் இப்போது வரிவசூல் செய்யக்கூடிய ஆபீசர்களின்மேல் சில அவதூறுகள் சொல்லப்படுகின்றன. ஆனால் அவர்கள் சர்க்கார் உத்திரவை மேற்கொண்டுதான் வரி வசூலித்து வருகின்றார்கள். ஆனால் வியாபாரிகள் எந்த அளவுக்கு இதில் ஒத்துழைக்கிறார்கள் என்பதைப் பார்க்கவேண்டும். அவர்கள் மாதாமாதம் கட்டவேண்டிய பணத்தை கட்டிக்கொண்டு வருகின்றார்களே தவிர, தாங்கள் மேலும் இவ்வளவு வியாபாரம் செய்திருக்கிறோம், அதற்கு இவ்வளவு வரி என்று தனியாக எழுதி கொடுப்பதேயில்லை. அவர்கள் இப்போது எல் துறைகளைக் கையாண்டு விற்பனை வரியை சர்க்காருக்கு கொடுக்காமல் பல வழிகளில்

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வியாபாரம் செய்துவருகிறார்கள். ஒரு உதாரணம் சொல்லுகிறேன். இப்போது சென்னையிலே வாங்கும் சாமான்களை யெல்லாம் பெரும்பாலும் லாரிகளில் ஏற்றிக்கொண்டு அவர்கள் இடத்திற்கு எடுத்துச் செல்லுகிறார்கள். அவைகளுக்கு எவ்வித ரசீதும் (Bill) கிடையாது. அப்படி லாரிகளில் போகும் சாமான்கள் யாருக்காகப் போகிறது, எந்தக் கடைக்காரருக்குப்போகிறது, யாரிடத்தில் வாங்கினார், என்பதெல்லாம் ஒரு தகவலும் லாரி டிரைவர் வைத்திருப்பது இல்லை. அப்படி இந்த வியாபாரிகள் நடந்து கொள்வதால் பெருத்த அளவில் சர்க்காருக்கு வரிகொடுக்காமல் மோசம் செய்யவதை விற்பனை வரி அதிகாரிகள் தெரிந்துகொண்டிருக்கிறார்கள். இம் மாதிரியாக லாரிகளிலும், ரயில்களிலும் பார்சல்களாக ஏற்றிக்கொண்டு எவ்வித அத்தாக்கியில்லாமலும் சர்க்காரை ஏமாற்ற வியாபாரம் செய்யப் படுகிறது. இவைகளுக்கு எல்லாம் ரசீதே வைத்துக்கொள்வதில்லை. கடைக்காரரும் விற்பதாக கணக்கு வைப்பதில்லை. பொருள்களைக் கொடுப்போரும், அதாவது விற்பனை செய்வோரும் சாதாரணமாக விற்பனை வரியை ஏமாற்றுவதற்காக பெரும்பாலும் ரசீது இல்லாமலேயே சாமான்களைக் கொடுக்கிறார்கள். ஆகவே இதையெல்லாம் கண்டுபிடிப்பதற்கு வரி வசூலிக்கும் ஆபீசர்களுக்கு நாம் போலீஸ் அதிகாரம் கொடுத்துத் தவ வேண்டும். அவர்கள் சாமான்கள் ஏற்றிக்கொண்டு போகும் லாரிகளை நிறுத்தி, அதில் என்ன சாமான்கள், யாருக்குப் போகிறது, வாங்கிய இடம் எது, என்பவைகளையெல்லாம் விசாரித்தால்தான் அதன்மூலம் சர்க்காருக்கு உண்மையாக வரி வந்து சேரமுடியும். அப்பொழுதுதான் சர்க்காரும் மேற்கொண்டு நல்ல முறையில் நடப்பதற்கு முடியும். அதை விட்டுவிட்டு, வரிகளைக் குறைக்கவேண்டும், மேலும் அதிகரிக்கக் கூடாது என்று சொல்வதெல்லாம் தவறு. பணம் படைத்த வியாபாரிகள்தான் பெரும்பாலும் நல்ல முறையிலே சர்க்காருக்கு வரி கொடுப்பதில்லை. ஆகவே இம்மாதிரியாக லாரிகளில் சாமான்களை எடுத்துச் செல்வதையெல்லாம் தடுத்து, சர்க்காருக்கு அதிகமான வரி வசூலிப்பதற்கு விற்பனை வரி இலாக்கா அதிகாரிகளுக்கு போலீஸ் அதிகாரம் கொடுத்துத் தவ பரிசீலனை செய்யவேண்டுமென்று அரசாங்கத்தைக் கேட்டுக் கொள்ளுகிறேன்.

“அடுத்தபடியாக, பெரும்பாலும் சாமான்கள் ரயிலிலே பார்சல் மூலமாக எடுத்துச் செல்லப்படுகின்றன. ஆகவே அவைகளை பரிசோதனை செய்வதற்காக, எவ்வெவ்வித வழிகளைக் கடைப்பிடிக்கலாம் என்பதையும் கண்டுபிடித்து, அதற்கும் ஆவன செய்யவேண்டுமென்று கேட்டுக்கொண்டு முடித்துக்கொள்ளுகிறேன்.”

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* SRI K. BHASHYAM :—“ Sir, there are two or three points involved in this measure. One is the question whether there should be advance payment of tax at all. The second is how to give effect to it. The third question is, so far they have been collecting the tax on the basis that the Government were entitled to do so. Some provisional collections have also been made. Now that it has been found to be illegal, how are we to make it legal? These are the points to be considered now. So far as advance payments are concerned, I think we have become accustomed to such payments from 1939. It is only recently when an enterprising gentleman took up the matter to the High Court, the High Court came to the conclusion that such a procedure of collecting the tax in advance was wrong. However, I may point out that we have been used to this kind of advance payment. Even in the case of income-tax, we pay the tax in advance. So, this is nothing new. This system of advance collection came into force during war time when the Government wanted money earlier. So, that system was introduced. Though the war has ended,

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this provision still remained. This is the usual thing that happens in every case. If we look at the history of the income-tax, it will be seen that it was introduced as some sort of war measure in the days of Mr. Gladstone. It was intended only for the purpose of meeting the expenses connected with the war and for no other purpose. But, it has continued for the past so many years. The money derived from this tax is now being used even for meeting ordinary expenses. This practice has continued for such a long time and there is no use of blaming the Government now.

“Now there is the other question to be considered. How are we going to legalise what has been done before? This is what is sought to be done by the amending Bill that we are now considering. It is here we have to be very clear and careful also. If the bill is not passed it will look as if the Government will be asked to refund those amounts and recollect them again. If they are to refund those amounts, they will have to refund not only the amounts that they collected but also the interest thereon. This means that the Government will have to refund a large amount. To avoid this only I said that the wording of the amended Bill should be very clear. So we have said in clause 3 that ‘The principal Act shall be read and construed as if the amendments made by section 2 had formed part of the principal Act from its commencement.’ I think this is the familiar way of drafting. We have to draft the provisions in such a way that there are no ambiguities. That is the English way of drafting. That is also the Indian way of drafting. So, I do not think there will be any difficulty in regard to this matter. This is a very simple Bill and there is no need for a long speech or heated argument. I submit that there is no necessity for my friend Sri Raza Khan—who, I suppose, is preparing himself—to speak on the Bill. I do feel that this measure may be passed without any more discussion.”

• SRI MOHAMED RAZA KHAN :—“Mr. Chairman, Sir, I think some confusion has been caused more on account of the remarks made by the Hon. the Revenue Minister himself. If only he had taken pains to explain the position more fully, I think the Members would have been in a position to make a proper appreciation of the stand taken by the Government. As far as the provisions of the Act are concerned, there is no compulsion on the part of the assessee to pay the tax in any particular manner. The party can make payment on a monthly basis or otherwise. He can tell the Assistant Commercial Tax Officer or whoever the authority be that he is going to make payment on a monthly basis, e.g., that he will pay the tax collected during March on the 26th of April next. If he is not agreeable to this course or if he feels that this mode of payment will be inconvenient to him, he can also allow himself to be assessed to sales tax on the basis of the previous year's turnover. This is provisional assessment. Therefore, there is no such thing as compulsion on the part of the assessee to make advance

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payment of the tax. There are one or two advantages also for the merchants if they make payment on the basis of the previous year's turnover. For example, suppose I made business last year to the tune of one lakh of rupees. I can pay provisional tax on this basis for this year, whereas the actual sale this year runs to, say three lakhs of rupees, and on this basis I must pay more tax immediately. But I don't do it because the regular assessment comes in only after I submit my returns. So, the difference between the provisional assessment and the regular assessment which is made after the submission of returns, is the money which I keep with me for twelve months and I can rotate it in business. The party has got the advantage of keeping this money for twelve months before he pays it to the Government, unless of course the Deputy Commercial Tax Officer enhances the provisional tax meanwhile. But generally, it is not done. There is one disadvantage also here. Suppose my turnover last year was Rs. 15,000. I pay provisional tax on this for this year, whereas actually this year my business goes down. At the end of the year, of course, the regular assessment is made when the excess money collected is refunded. Here some difficulty is experienced. Whenever money has to be paid to the Government, they are always very careful to see that it is collected in full as quickly as possible. But when they have to pay to the party, they take a long time. I would request the Hon. the Revenue Minister to issue instructions to see wherever such advance payment of tax is made, the accounts are checked as soon as the year is out and the money due to the parties is returned at once. I request him to clarify the points I have tried to explain now and I also hope he will issue instructions to the authorities to see that refunds are made as soon as they fall due."

5-10
p.m. * SRI T. PURUSHOTHAM :—" Sir, after hearing the Hon. Member, Mr. Bhashyam, who has explained the rationale of this measure so clearly, I am sure there will be no reasonable opposition to the passage of this Bill. This Bill is just intended to solve a legal difficulty and being such a simple measure, I believe we will accept it. The hon. Member, Mr. Ethirajulu raised a general question in this connection and I can only remind him that the Taxation Enquiry Commission did go into the taxation structure of the States in regard to sales tax also. I am sure the Government will examine fully the recommendations of the Taxation Enquiry Commission with regard to this question. The Commission has also dealt with the question of exemption of food-stuffs from the levy of sales tax. Special mention has been made in the report with regard to departmental corruption and harassment on the part of the subordinate staff. I hope the Government will examine these questions also. The Commission has referred to evasion of tax and I am sure the Government will take this factor as well into consideration and see that a general, comprehensive Bill is brought at an early date covering the entire field of sales tax levy and administration. In that connection changes and improvements that may be found necessary may be introduced. I think this Bill may go through and I do hope that Government would take the necessary steps with

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regard to rationalisation of this tax with reference to the report of the Taxation Enquiry Commission. With these words I support the measure."

* SRI T. M. DAIVASIKHAMANI ACHARIAR :—" Mr. Chairman, I am very much interested in the sales tax and I also congratulate Government for having exempted perishable goods from the levy of sales tax. I would have been gladder if coconuts also were exempted from the operation of sales tax as it is also a perishable commodity. Be that as it may, the need for the sales tax has been agreed to by one and all. The Deputy Leader of the Opposition brought it to the notice of Government that to call this as sales tax is a misnomer but that the proper wording ought to be purchase tax. Sir, there is some sense in what they say. It is the purchasers who pay the tax and not the seller. Therefore I think that definition could be given. The Deputy Leader of the Opposition touched upon this subject and said in England and other civilised countries, this is known as purchase tax. Now as Government are facing a deficit of 166 lakhs, it is for them to find out ways and means to get the deficit wiped out. Their only hope is that they could get a loan from the Government of India or that they may raise loans in the State. Sir, it is indeed a very hopeful sign but I have got my own doubt about it. Whether it is going to be realised or not, time alone can show. Sir, we are now leaving out the milching cows and we are trying to get the quantity of milk from dried-up cows. Sales tax on small articles will not fetch Government with the necessary money they want to balance their expenditure. In this case I would bring to the notice of Government about their having taken away the sales tax on ready-made jewels, diamond, etc. I do not know what made Government to get exempt the sales tax on these ready-made jewels, diamond, etc.

" A very responsible authority in Bombay, viz., the President of the All-India Jewellers' Association has come forward with his figures. For every year he says 600 crores worth of jewels are made for marriage purposes in India, leaving alone the other purchases wherein our ladies are bedecked with jewels. Sir, these jewels are not manufactured by private companies or workmen. A great majority of these things are made in shops and these shops get the major profit out of them. I made a rough calculation, Sir, on this subject and I have found that Rs. 70 crores worth of jewels are made in a year in our State. This Rs. 70 crores worth of jewels are not made by the jewellers sitting the whole day in their pials, but these are made by the men who sit in their cushions. These are the men who reap huge profits by incurring an expenditure of Rs. 70 crores annually on the manufacture of jewels. Previously Government thought of taxing them Re. 0-1-3 in the rupee for the manufactured jewels and diamonds. But somehow they have dropped the idea with the result these persons sitting in the cushions and reaping good profit go un-taxed. Somehow these big men have enticed the Government and they have dropped the idea of taxing manufactured jewels. I say, Sir, Government ought not to be deceived by these

[Sri T. M. Daivasikhamani Achariar]

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people. What was the condition of these merchants some five years ago? What is their condition to-day. Sir, these merchants, these shop-keepers who make Rs. 70 crores worth of jewels are the real blood-suckers of people. These merchants who were only ordinary folk some five years ago have now amassed huge profits. They are earning lakhs and lakhs of rupees. Government should not close their eyes to this fact. I think Government are working at the wrong end. We must make up the deficit and are we to lose the Rs. 288 lakhs which we could get out of the horns of these people? Every year they are amassing lakhs and lakhs of rupees. Why should they then protest against any increase in taxation. There is no meaning in their doing so. It is the purchasers who pay the tax. Therefore why should they grudge paying Rs. 288 lakhs as sales tax on their sale of manufactured jewels and diamonds? When that source of taxation is there, why should Government think of approaching Government of India for loan or for raising loan here itself. Therefore, as Mr. John always says, if we are a civilised Government we must show to the world that we are civilised by restoring the sales tax on manufactured jewels and diamonds and then there will not be any necessity for Dr. John to characterise us as uncivilised Government. With these words, I thank you, Mr. Chairman, for having given me an opportunity to speak."

5-20
P.M.

SRI V. V. RAMASWAMI :—"கனம் தலைவர் அவர்களே, இந்த பொது விற்பனை வரிச்சட்டத்தின் சில விதிகள் பல ஆண்டுகளாக நடைமுறையில் இருந்துவந்து, பிறகு உயர் நீதி மன்றத்தில் இவை மூலசட்டத்தில் இல்லாததினால், செல்லாது என்று தீர்மானிக்கப்பட்டுவிட்டது. ஆகையால் அவைகளை சட்டப்படி செல்லும் என்று உறுதிப்படுத்த இம் மசோதா கொண்டு வரப்பட்டது. அப்படிக் கொண்டுவந்ததில், எல்லா வசதிகளும் அதிலே அடங்கி இல்லாவிட்டால் அந்தச் சட்டம் வந்தும் பயனில்லை. வசதிகளோடு இல்லாமல் சட்டம் கொண்டுவந்தால், அதை என்போன்ற வியாபாரிகள் முழுமனத்தோடு வரவேற்பார்கள் என்று சொல்வதற்கு முடியாது என்பதை இந்தச் சந்தர்ப்பத்திலே சொல்ல விரும்புகிறேன்.

"இப்பொழுது நடைமுறையில் எப்படி இருக்கின்றது? ஒரு வியாபாரிக்கு முந்திய வருடத்தில் மொத்த வியாபாரத்தொகைக்கு உத்தேசமாக வரி விதித்து மாதாமாதம் வரிகட்டுவதற்கு உத்தரவு போடுகிறார்கள். அதாவது முந்திய ஆண்டில் ரூ. 300 வரிகட்டியிருந்தால் மாதா மாதம் ரூ. 25 வீதம் கட்டிவரவேண்டும். ஆண்டு இறுதியில் விற்பனை நடந்த மொத்த தொகைக்கு வரி விதித்து கூடுதல் குறைவுக்குச் சரிக்கட்டி உத்தரவு போடுகிறார்கள். இது ஏ 2 என்று ரூலை வைத்திருக்கிறார்கள். ரூ. 30,000-க்குமேல் விற்பனைத் தொகை வந்துவிட்டால் ரூல் நெ. 13 பிரகாரம் அந்தந்த மாத வியாபாரத் தொகைக்கு அடுத்த மாதம் 25 தேதிக்குள் ஏ 3 என்ற ரிட்டர்ன் டூர்த்தி செய்து வரிகட்டலாம். பொதுவாக கவர்ன்மெண்டுக்கும் பொது லாப நஷ்டக் கணக்குப் பார்த்து, கணக்குக்கு மேல் உத்தேசமாக எண் 4 மேட்டைக்கூட்டி வரியை அதிகமாக விதிக்கப்படுகிறது. ஆகையால் இப்படிப்பட்ட சங்கடங்கள் பல இருப்பதினால் வியாபாரிகள் தொல்லிப்படுகிறார்கள்.

"1953-ஆம் ஆண்டிலே இந்த பொது விற்பனை வரி அமுலில் இருக்கின்றதை ஆராய்ந்து பார்ப்பதற்காக ஒரு முக்கூட்டு கமிட்டி அமைக்கும் படி அமைச்சர் அவர்களைக் கேட்டுக்கொண்டேன். அதற்கு அமைச்சர் அவர்களும் ஒப்புக்கொண்டார்கள். ஆனால் பின்னால் பல காரணங்களினால் அது கைவிடப்பட்டதாகத் தெரிகிறது. இப்போதுதான் உத்தியோகஸ்தர்கள் அடங்கிய ஒரு கமிட்டியை நிறுவியிருப்பதாகச் சொல்லப்படுகிறது.

18th March 1955] [Sri V. V. Ramaswami]

அதாவது இந்தச் சட்டத்தை அமுல் நடத்துவதில் வியாபாரிகளின் எப்படி பாதிக்கப்படுகிறார்கள் என்பதை ஆராய்ந்து சொல்லுவதற்காக உத்தியோகஸ்தர்கள் நியமிக்கப்பட்டிருப்பதாகச் சொல்லப்படுகிறது. இது பற்றி உத்தியோகஸ்தர்களைக் கேட்டால் நாங்கள் வியாபாரிகளுக்குத் தொல்லை கொடுப்பதில்லை, நாங்கள் வியாபாரிகளிடம் கொஞ்சம் கடுமையாக இருக்காவிட்டால் தற்சமயம் வசூலாகும் பணம்கூட வந்து சேராது, மறைத்து விடுவார்கள் என்றுதான் அந்த அதிகாரிகள் கூறுவார்கள். எனவே உத்தியோகஸ்தர்கள் அடங்கியுள்ள கமிட்டியினர் வியாபாரிகளின் கஷ்டங்களை எடுத்துச் சொல்லுவதற்கு முன்வரமாட்டார்கள் என்றுதான் அஞ்சலேண்டியிருக்கிறது. ஆகவே இதுபற்றி முடிவுக்கு வருமுன் சம்பந்தப்பட்ட வியாபாரிகள் அடங்கிய ஒரு மகாநாடு கூட்டி, அவர்களுக்கு இருக்கின்ற கஷ்டங்களையெல்லாம் சொல்லக்கேட்டு சுமுகமான முறையில் சட்டத்தைத் திருத்தி அமைக்கவேண்டுமென்பது என்னுடைய வேண்டுகோள். குறிப்பாக, இதில் ஒன்றைச் சொல்ல விரும்புகிறேன். ரூ. 7,500 வரையில் வரி கிடையாது. ஆனால் ரூ. 6,000 வரை வியாபாரம் செய்யக்கூடிய வியாபாரிகளிடம் ஏதாவது காரணம் சொல்லி, நீங்கள் ரூ. 7,500 அல்லது அதற்குமேல் வியாபாரம் செய்கிறீர்கள் என்று சொல்லி அவர்களை வரி செலுத்தச் செய்துவிடுகிறார்கள். ஒரு தடவை இப்படி கட்ட வேண்டுமென்றால் போனால் போகட்டும் என்று கட்டிவிடுவார்கள். அப்படி கட்டமுடியாது என்று சொன்னாலோ அவர்கள் அப்பீல் செய்ய வேண்டும். ரூ. 30, ரூ. 40-க்காக அப்பீல் செய்யவேண்டுமே என்று அவர்கள் வரியையே கட்டி விடுவார்கள். அப்படி ஒரு தடவை ஒப்புக்கொண்டு கட்டிவிட்டால், அதற்குப் பிறகு விடாமல் தொடர்ந்து கட்டவேண்டிய சங்கடம் அவர்களுக்கு ஏற்பட்டுவிடுகிறது. அவர்களுக்கு உண்மையிலேயே அதிக வருவாய் வராவிட்டாலும், இந்தக் கணக்கிலேயே அவர்களுக்கு விதிக்கப்படுகிறது. இவ்வாறு அதிகாரிகளுக்கு மதிப்பை உயர்த்துவதற்கு அதிகாரம் அளிக்கப்பட்டிருப்பதால், அவர்கள் பரிசீலனை செய்யாமலேயே இப்படித்தான் இருக்குமென்று சொல்லி வரிகொடுக்கும்படி சொல்லிவிடுகிறார்கள். இதை விலக்கிவிட்டால்தான், வியாபாரிகளுக்கு ஓரளவு தொல்லைகள் நீங்கும்.

“மேலும், மொத்த டரன் ஓவர் இவ்வளவு என்று கணக்குக் கொடுத்தால் விற்பனை வரி இலாகா அதிகாரிகள் வியாபாரிகளை ‘உங்களுக்கு அந்திலே எவ்வளவு லாபம் கிடைத்தது’ என்று கணக்கு கேட்கிறார்கள். வருமானவரி இலாகா அதிகாரிகளைப்போல் விற்பனைவரி இலாகா அதிகாரிகள் இப்படி கணக்கு கேட்பது சரியல்ல. வியாபாரிகள் தங்களுக்கு ஆற்றை பர்சென்ட் லாபம் என்று சொன்னால் ‘உங்களுக்கு குறைந்தது பத்து பர்சென்ட் லாபம் வந்திருக்கவேண்டும், நீங்கள் சொல்லுவதை நம்புவதற்கில்லை’ என்று சொல்லி அவர்களை மதிப்பிட்டு, அந்த முறையில் கணக்கிட்டு வரி வசூலிக்கிறார்கள். இந்த மாதிரியெல்லாம் அவர்களை பல சங்கடங்களுக்கு ஆளாக்குகிறார்கள். மேலும் வியாபாரிகளை யோக்கியமானவர்கள் என்று கருதாத ஒரு மனப்பான்மையை ஏற்படுத்தி விடுகிறார்கள். ஆகவே இம்மாதிரியான பல சங்கடங்களை ஏற்படுத்தாமல், நல்ல முறையிலே வசூலிக்க சட்டத்தைத் திருத்தி அமைத்தால், எல்லா வியாபாரிகளும் ஒத்துழைப்பார்கள். இதை நான் வியாபாரிகள் சார்பாக இச்சபை முன்பு சொல்லிக்கொள்ள விரும்புகிறேன். அவர்களை நம்பிக்கையானவர்கள், யோக்கியர்கள் என்று மதித்தால்தான் அவர்களும் அரசாங்கத்தோடு ஒத்துழைக்கத் தயாராக இருப்பார்கள். இவ்வாறு பல சங்கடங்கள் கொடுப்பதால், அரசாங்கமே அவர்களை வேறு பல காரியங்களைச் செய்வதற்குத் தூண்டுகோலாக அமைகின்றது. எப்படி உணவு கட்டுப்பாட்டால், மக்கள் பலவித அநியாய முறைகளைக் கையாள முன்வந்தார்களோ, அதேபோல் இவ்விதக் கட்டுப்பாட்டினால் பல விதமான மாற்றுக்காரியங்களில் இறங்க அரசாங்கமே தூண்டுதலாக இருக்கிறது. ஆகவே இதையெல்லாம் தடுப்பதற்கு உடனடியாக எல்லோருக்கும் சுமுகமாக ஏற்படுத்தும் விதத்தில் வரி வசூலிக்கும்படியான ஒரு சட்டத்தைக் கொண்டுவரவேண்டுமென்று சொல்லிக்கொண்டு, இப்பொழுது இந்த மசோதாவை ஆதரிக்கிறேன்.”

[Sri V. V. Ramaswami] [18th March 1955]

5-30
p.m.

* THE HON. SRI M. A. MANICKAVELU :—“ Sir, the issue before us is a simple one. The method of advance collection of sales tax has been going on for the last fifteen years. Incidentally I may inform the hon. Deputy Leader of the Opposition that the rules were framed in 1939 and advance collection was going on under the rules. But an enterprising litigant took up this matter to the High Court and the High Court gave a decision that advance collection of tax cannot be done under the rule-making powers, but that this provision must find a place in the body of the Act itself. Therefore, Government have to bring in this amending Bill so as to provide for advance collection of tax in the Act itself. That is the simple thing. But certain hon. Members ranged over a wide field and talked about exemptions, merits and demerits of sales tax, and interesting subjects like marriage and ladies bedecked with jewels. We had also a sample of 19th century style of speaking.”

DR. V. K. JOHN :—“ May I know, Sir, what is meant by the 19th century style of speaking? ”

* THE HON. SRI M. A. MANICKAVELU :—“ I referred to Sri Deivasikhamani Achariar. The blame should go to the hon. Deputy Leader of the Opposition because it is he who traversed all over England, America and talked about the merits and demerits of sales tax. So, there is no wonder other hon. Members followed him. I cannot blame them. When the hon. Member Sri M. Ethirajulu talked about exemption and all that, the Hon. Chairman asked whether I did not understand him. I understood him because I know Tamil. But I was only wondering why he was embarking upon all those things. I cannot blame him because the hon. Deputy Leader of the Opposition himself set such an example. But he can take shelter by saying that the subject under discussion is sales tax and so they can talk about it.

“ Then coming to my hon. Member Sri Mohamad Raza Khan, Sir, I am reminded of a student in a class who is inattentive and talking to his neighbours and afterwards complaining that the teacher did not teach. This advance collection has been going on for a number of years. Either the taxing officer makes a provisional estimate of the year's collection and bases the tax on that, or option is given to the merchant to give his own estimate which may be even very low and the taxing officer accepts it and on that amount, he assesses the tax payable in advance. But finally at the end of the year the whole thing is revised. Therefore, there is no question of hardship. The Taxing Officer is prepared to take whatever the merchant gives as the return. The system has been working well. In fact certain merchants welcome it because they are rid of the bother by paying the tax once in a month, or two months or three months according to the convenience of the merchants.

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" This has not caused any hardship. But there was this technical defect. That is why the Government have come forward with this amending Bill.

" In regard to the Agricultural Plantations Income-tax Bill, I conceded that there were certain defects and ill-drafting. Therefore perhaps the Hon. the Deputy Leader of the Opposition was emboldened to say that there were defects in this Bill also. Certainly, I am not going to concede that there are any defects in this Bill. There is no defect at all. It is quite all right. Once the High Court said that a certain thing was wrong, and the Government took steps for rectifying the defect by bringing in an amending legislation, it is the duty of the Government to see that the legislation is quite proper. Whether it is practical to give retrospective effect for all years or not, is immaterial. But when we amend the Act, we must amend it properly and see that all acts done wrongly, according to the High Court decision, are set right. But for all practical purposes, this amending legislation will have retrospective effect only for the last one or two years. The Hon. the Deputy Leader of the Opposition asked, 'How can this affect one or two previous years?' It will affect, Sir, in this way. For one year the accounts may be closed. But it may be a case taken on appeal. It will take some time for the appeal to be disposed of. In that case, it will not necessarily be one year but it will cover two years. But everything will be over in two years. That is why I said, 'one or two years.' There is nothing inconsistent here. There is no ill-drafting either. Everything is all right. The Hon. the Deputy Leader of the Opposition is still perhaps thinking of the Agricultural Plantations Income-tax Bill. Sir, we are now on the Sales Tax (Amendment) Bill."

MR. CHAIRMAN :—" The question is—

' That the Madras General Sales Tax (Amendment) Bill, 1955 (L.A. Bill No. 4 of 1955), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2, 3 and 1 were put and carried.

The Preamble was put and carried.

* THE HON. SRI M. A. MANICKAVELU :—" Sir, I move—

' That the Madras General Sales Tax (Amendment) Bill, 1955 (L.A. Bill No. 4 of 1955), as passed by the Assembly, be passed.' "

[18th March 1955]

MR. CHAIRMAN :—“ The question is—

‘ That the Madras General Sales Tax (Amendment) Bill, 1955 (L.A. Bill No. 4 of 1955), as passed by the Assembly, be passed.’ ”

The motion was carried and the Bill was passed.

MR. CHAIRMAN :—“ The House will now adjourn and meet again at 3 p.m. to-morrow.”

The House then adjourned.

IV.—PAPER LAID ON THE TABLE OF THE HOUSE.

^a Notification issued with G.O. Ms. No. 4263, Home, dated 7th November 1951, regarding amendment to the Madras Motor Vehicles Rules, 1940 [Laid on the table of the House with reference to subsection (3) of Section 133 of the Madras Motor Vehicles Act (Central Act IV of 1939)].

